

**STATE OF COLORADO****Department of State**

1700 Broadway  
Suite 270  
Denver, CO 80290

**Ginette Dennis**

Secretary of State

**J. Wayne Munster**

Acting Director, Elections Division

**NOTICE OF HEARING**

**HAVA/Elections Complaint**  
**Docket No. SOS-HAVA 01-06-0001**

**Wednesday, May 24, 2006, 1:30 p.m.**

**Office of the Secretary State**  
**Blue Spruce Conference Room**  
**1700 Broadway, 2<sup>nd</sup> Floor**  
**Denver, Colorado**

**Purpose of Hearing**

The hearing will address a complaint received by the Colorado Secretary of State on April 10, 2006, alleging a violation of State law and Title III of the federal Help America Vote Act of 2002. Allegations in the complaint include:

1. Hart eSlate voting equipment does not provide anonymous voting using the voter verifiable paper trail (VVPAT) on a continuous paper roll with votes in sequence.
2. Visually impaired voters are unable to verify their voted selections on the VVPAT to detect errors.

**Procedure**

The hearing will be conducted by the Secretary of State. At the hearing, the complainant will first be invited to present data, views, and arguments relevant to the complaint. Other interested individuals will then be permitted to present relevant data, views, and arguments. The complainant will be permitted to provide final remarks. If necessary to complete the hearing within the time available, time limits on testimony may be imposed.

At the hearing, testimony may be provided orally and in writing. Written testimony may also be submitted to the Secretary of State before or after the hearing, but no later than June 1, 2006, by electronic mail (at the email address listed below) or by U.S. mail (at the address listed above). Pursuant To 1-1.5-105(i) C.R.S., the Secretary of State will issue a final determination of the complaint no later than ninety days following the filing date of the complaint, or July 10, 2006.

The hearing will be audio taped.

**List of Supporting Documents**

- Copy of complaint
- Acceptance Letter to complainant

Main Number (303) 894-2200  
TDD (303) 869-4867  
Fax (303) 869-4861

Web Site  
E-mail – Elections

[www.sos.state.co.us](http://www.sos.state.co.us)  
[sos.elections@sos.state.co.us](mailto:sos.elections@sos.state.co.us)

RECEIVED  
APR 10 2006  
ELECTIONS  
SECRETARY OF STATE

*Al Kolwicz*  
2867 Tincup Circle  
Boulder, CO 80305  
303-494-1540  
[AlKolwicz@qwest.net](mailto:AlKolwicz@qwest.net)  
[www.users.qwest.net/~alkolwicz](http://www.users.qwest.net/~alkolwicz)  
[www.coloradovoter.blogspot.com](http://www.coloradovoter.blogspot.com)

April 7, 2006

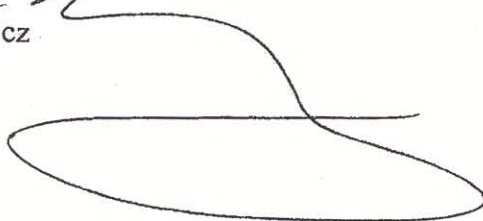
Ms. Gigi Dennis  
Colorado Secretary of State  
1700 Broadway, Suite 270  
Denver, CO 80290

Dear Ms. Dennis:

Enclosed please find a formal complaint against the HART eSlate.

Please forward to me a copy of the procedures that will be used to rule on this complaint. As you may know, we have previous experience with the HAVA complaint process and have not been happy with the lack of due process and the fact that the Secretary of State serves as defendant, judge and jury.

  
Al Kolwicz



# RECEIVED

APR 10 2006  
ELECTIONS  
SECRETARY OF STATE

COMPLAINT  
COLORADO SECRETARY OF STATE  
1700 BROADWAY, SUITE 270  
DENVER, COLORADO 80290  
303-894-2200, OPTION 3  
FAX 303-869-4861

FOR CLERICAL USE ONLY

COMPLAINT ID:

505-01-06-0001

DATE OF FILING:

April 10, 2006

PERSON ALLEGING COMPLAINT

Name AL Kolwicz Home Phone 303 498 9527 Work Phone 303 494 1540

Address 2867 Tincup Circle

City BOULDER State CO Zip Code 80305 County BOULDER

PERSON OR ENTITY AGAINST WHOM ALLEGED COMPLAINT IS BROUGHT (LIMIT ONE PERSON/ENTITY PER FORM)

Name COLORADO SECRETARY OF STATE Home Phone \_\_\_\_\_ Work Phone 303 894 2200

Address 1700 BROADWAY, SUITE 270

City DENVER State CO Zip Code 80290 County DENVER

STATE LAW VIOLATIONS [NOTE: ALLEGED VIOLATIONS OF STATE ELECTION LAW DO NOT NEED TO BE NOTARIZED]

Pursuant to Section 1-1-107(2)(b), Colorado Revised Statutes (2004), the Secretary of State is granted independent authority to inspect and review the practices and procedures of county clerk and recorders, election commissions, their employees, and other election officials in the conduct of primary, general, and congressional vacancy elections and the registration of electors in this state, with or without the filing of a complaint by any person.

- ☐ I was not allowed to vote in secret.
- ☐ I was not allowed to turn in my absentee ballot.
- ☐ I was not allowed to ask questions or ask for assistance.
- ☐ I was not allowed to vote, even though I was standing in line before the polls closed.
- ☐ I was not able to vote because I wasn't given assistance to accommodate my disability.
- ☐ I was not able to vote because I wasn't given assistance in my own language.
- ☐ I was not provided election materials in my own language.

- ☐ My voter registration information was altered.
- ☐ I observed the casting of a fraudulent vote.
- ☐ My polling place was not open (either on time or at all).
- ☐ I observed pollworkers acting or saying something inappropriate.
- ☐ I observed inappropriate electioneering or campaigning too close to the polls.
- ☐ I was not allowed to re-vote after I made a mistake.
- ☐ Officials neglected to perform their duties.

☐ Other state law violation: (1) Article VII section 8 Colorado Constitution  
(2) CRS 1-8-704(1)(N) I, IV, V, VI

FEDERAL LAW VIOLATIONS [NOTE: ALL ALLEGED VIOLATIONS OF THE HELP AMERICA VOTE ACT MUST BE NOTARIZED]

Pursuant to section 1-1.5-105, Colorado Revised Statutes, the Secretary of State has sole jurisdiction to adjudicate alleged violations of Title III of the Help America Vote Act of 2002 (HAVA). Any person who believes that a violation of Title III of HAVA has occurred, is occurring, or is about to occur may file a complaint. In order to initiate the complaint process, a sworn, written, signed and notarized complaint must be filed with the Secretary of State no later than one year from the date of either the occurrence of the alleged violation or of the election giving rise to the complaint, whichever is later. The complaint must allege the violation with particularity, contain a reference to the section of HAVA alleged to have been violated, and the person or entity responsible for the violation.

- |  |  |
|--|--|
| <input type="checkbox"/> I was not allowed to vote using a provisional ballot.                                   | <input type="checkbox"/> Applications for voter registration were not properly processed, e.g. appropriate identification from the registrant were not required. |
| <input type="checkbox"/> Required voting information was not publicly posted in a polling place on Election Day. | <input type="checkbox"/> I was not able to determine whether my provisional ballot was counted.  |
| <input type="checkbox"/> Other federal law violation: <u>TITLE III sec 301(2)(1); (2)(2)(B)(1); (2)(3)(A)</u>    |  |

DETAILS OF THE COMPLAINT

STATE IN YOUR OWN WORDS THE DETAILED FACTS AND CIRCUMSTANCES THAT FORM THE BASIS OF YOUR COMPLAINT, INCLUDING ANY RELEVANT PERSON(S). IN YOUR NARRATIVE EXPLANATION, PLEASE INCLUDE RELEVANT DATES AND TIMES AND THE NAMES AND ADDRESSES OF OTHER PERSONS WHOM YOU BELIEVE HAVE KNOWLEDGE OF THE FACTS. ALSO, GIVE ANY REASONS THAT YOU FEEL THE ALLEGED VIOLATION WAS COMMITTED BY THE PERSON AND/OR ENTITY AGAINST WHOM THIS COMPLAINT IS BROUGHT.

IF YOU BELIEVE THAT A VIOLATION OF TITLE III OF THE HELP AMERICA VOTE ACT OF 2002 HAS OCCURRED, IS OCCURRING OR IS ABOUT TO OCCUR, PLEASE STATE THE SPECIFIC ACTS COMMITTED BY THE PERSON OR ENTITY NAMED IN THIS COMPLAINT ALONG WITH A REFERENCE TO THE SECTION OF HAVA ALLEGED TO HAVE BEEN VIOLATED:

THE HART ESTATE HAS BEEN WRONGFULLY CERTIFIED FOR USE IN COLORADO.

1. eSlate does NOT provide anonymous voting BECAUSE THE V-VPAT  
IS A CONTINUOUS ROLL OF PAPER. KNOWING THE SEQUENCE OF VOTERS  
ENABLES ONE TO KNOW EACH VOTER'S VOTES.

2. BLIND VOTERS CANNOT VERIFY THE VOTES SELECTED  
BY THE VOTER ON THE V-VPAT SO THEY CANNOT  
DETECT ERRORS ON THE PRINTED BALLOT

Check here if additional pages are attached ☐

IF YOUR COMPLAINT IS AN ALLEGED VIOLATION OF STATE LAW, YOU MUST SIGN THE FOLLOWING:

I declare under penalty of perjury under the laws of the State of Colorado that the foregoing is true and correct.

Executed on 4/7/2006, at BOULDER, CO  
(date) (city) (state)

Signature of Person Filing Complaint

*[Signature]*

IF YOUR COMPLAINT IS AN ALLEGED VIOLATION OF THE HELP AMERICA VOTE ACT, A  
NOTARY PUBLIC MUST COMPLETE THE FOLLOWING:

CERTIFICATE OF ATTESTATION

STATE OF COLORADO  
COUNTY OF BOULDER

I, the undersigned, under penalty of perjury, do swear or affirm that the information contained in this complaint is true and correct to the best of my knowledge.

*[Signature]*

Signature of Complainant

Sworn to and subscribed before me this 7<sup>TH</sup> day of APRIL, 2006

*[Signature]*  
Signature of Officer Authorized to Administer Oaths or Notary Public

MARY SUSAN MCLEAN  
(Print, Type, or Stamp Commissioned Name of Notary Public)



☐ Personally known or ☒ Produced Identification

Type of Identification Produced CODE

NOTICE: This Complaint is not confidential and, once filed with the Department of State, will be treated as a public record.

**STATE OF COLORADO**

**Department of State**

1700 Broadway  
Suite 250  
Denver, CO 80290



**Gigi Dennis**  
Secretary of State

**William A. Hobbs**  
Deputy Secretary of State

May 3, 2006

Mr. Al Kolwicz  
2867 Tincup Circle  
Boulder, CO 80305

Re: Your Complaint dated April 7, 2006 alleging a violation of (1) State law and (2) Title III of the federal Help America Vote Act of 2002. Tracking Number SOS-HAVA-01-06-0001

Dear Mr. Kolwicz:

This letter will acknowledge receipt of your written, signed and sworn complaint filed April 10, 2006. Your complaint alleges violations of both state and federal law, as follows:

1. State law: violations of Article VII, Section 8 of the Colorado Constitution, and Section 1-5-704(1)(n)(I), (IV), (V), and (VI), C.R.S.
2. Federal law: violations of Title III of the federal Help America Vote Act of 2002 ("HAVA", Public Law 107-252), specifically, section 301(a)(1), (a)(2)(B)(ii), and (a)(3)(A).

Your complaint alleges the wrongful certification in Colorado of Hart eSlate voting equipment. You contend that the eSlate does not provide anonymous voting because the VVPAT is printed on a continuous paper roll and that knowing the sequence of voters enables one to know each voter's votes. You further allege that blind voters cannot verify the votes selected by the voter on the VVPAT and therefore cannot detect errors on the printed ballot.

The Secretary of State has conducted a preliminary review of your complaint pursuant to section 1-1.5-105(2)(k), C.R.S. Initially, we note that it is not clear that your complaint fully meets the legal requirements for a HAVA complaint established in Section 1-1.5-105. Specifically, it does not appear from your complaint that you were "personally aggrieved by", or that you personally witnessed, a violation of Title III, as required by Section 1-1.5-105(2)(b). Nevertheless, the Secretary of State has determined that your complaint presents important questions that she wishes to consider and address.

Under section 1-1.5-105(1)(i), C.R.S., this office has ninety days in which to make a final determination on your complaint. The ninety-day period begins on the date that the complaint is filed, or April 10, 2006, the date we received your complaint. Your complaint has been assigned a unique tracking number, which is SOS-HAVA-01-06-0001. Pursuant to Rule 31.5 of the enclosed Election Rules of the Secretary of State, I am attaching a copy of the submitted complaint with evidence of receipt and assignment of the tracking number.

Pursuant to section 1-1.5-105(1)(g), C.R.S., you may request a hearing on the record. In your email to the Secretary dated April 22, 2006, you specifically requested a hearing on the record. The Secretary also affirmatively wishes to have a full public hearing concerning the issues raised in your complaint. Therefore, a public hearing has been scheduled for May 24, 2006 at 1:30 p.m., in the Blue Spruce Conference Room of the Secretary of State's Office, 1700 Broadway, 2<sup>nd</sup> Floor, Denver, Colorado. At that hearing, you will have an opportunity to present data, views, and arguments relevant to your

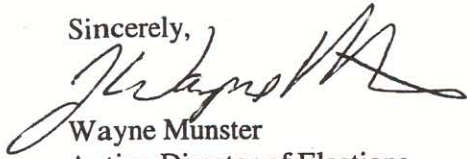
Main Number (303) 894-2200  
Administration (303) 860-6900  
Fax - Administration (303) 869-4860

TDD  
Web Site  
E-mail - Administration

(303) 869-4867  
www.sos.state.co.us  
sos.admin1@sos.state.co.us

complaint. Public notice will be provided in accordance with law, and the Secretary of State intends to notify interested parties, such as county clerk and recorders, vendors and representatives of the disability community, so as to promote a full and open hearing on the issues raised.

Sincerely,



Wayne Munster  
Acting Director of Elections

cc: David Hart, President, Hart Intercivic  
The Honorable Linda Salas, Boulder County Clerk and Recorder  
Dean Schooler (via email)  
Sheila Horton (via email)  
Joe Pezzillo (via email)  
Dr. Charles Corry (via email)  
Robert Corry (via email)

Encl.